IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 25657 of 2004(D)

AGAINST THE ORDER DATED / / IN IA.1248/2003 IN OS.74/1999 of SUB COURT, PAYYANNUR

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PETITIONERS:

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1. **M.P.BHASKARAN NAMBIAR, PRESIDENT, MADAI VADUKUNDA SIVA KSHETHRA RE-CONSTRUCTION COMMITTEE, P.O.PAYYANGADI, KANNUR DISTRICT.**

2. **P.V.NARAYANAN, SECRETARY, MADAI, VADUKUNDA SIVA KSHETHRA RECONSTRUCTION COMMITTEE, P.O.PAYYANANGADI, KANNUR DISTRICT.**

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS:

THIRUVARAKAT KAVU DEVASWOM, REP. BY ITS EXECUTIVE OFFICER, CHIRAKKAL KOVILAKOM OFFICE, CHIRAKKAL P.O. KANNUR DISTRICT.

BY ADV. SRI.T.A.RAMADASAN
SRI.CIBI THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.25657/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PLAINT FILED BY THE RESPONDENT HEREIN AS OS.91/97 ON THE FILE OF THE SUB COURT, PAYYANNUR DT. 6.10.97.

EXT.P2:- COPY OF THE COMMISSIONER'S REPORT DT. 4.7.03 SUBMITTED BY ADVOCATE COMMISSIONER K.P.GEETHA NAYANAR IN OS. 74/99 SUB COURT, PAYYANNUR.

EXT.P3:- COPY OF THE COMMISSIONER'S PLAN SUBMITTED BY -DO- -DO-

EXT.P3:- COPY OF THE COMMISSION REPORT SUBMITTED BY ADVOCATE COMMISSIONER T.K.KUNHIRAMAN IN OS. NO.91/97 SUB COURT, PAYYANNUR DT. 6.1.2000.

EXT.P4:- COPY OF THE PLAN IN OS. 91/97.

EXT.P5:- COPY OF THE AFFIDAVIT ACCOMPANYING IA. 1248/03 IN OS. 74/99 SUB COURT, PAYYANNUR.

EXT.P6:- COPY OF THE OBJECTION DT. 15.10.03 FILED BY PETITIONERS TO EXT.P5.

EXT.P7:- COPY OF THE ORDER DT. 10.10.03 IN IA. 1248/03 IN OS. 74/99 SUB COURT, PAYYANNUR.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

W.P. (C). NO. 25657 OF 2004

Dated this the 15th day of June, 2007.

J U D G M E N T

Challenge is on Exhibit P7 order passed by the Sub Court, Payyannur in I.A. No. 1248/2003 in O.S. No. 74/1999, on an application of amendment of the plaint schedule property. The order only says that the amendment is in conformity with the Commission Report and plan and hence the application was allowed.

2. It is the contention of the petitioners that their Exhibit P6 objection was not independently considered by the Sub Court and the application was allowed even without any reference to the same.

Having heard the counsel on both sides, I am of the view that the matter requires fresh consideration by the Sub Court. Hence, I set aside Exhibit P7 directing the Sub Court, Payyannur to pass fresh orders on I.A. 1248/2003 after adverting to the contentions taken by the petitioners in Exhibit P6 also. This shall be done within a period of four months from the date of receipt of a copy of this judgment.

KURIAN JOSEPH, JUDGE.

smp